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10/626,557	07/25/2003	Jong-Kyu Lee	P-0561	9331

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EXAMINER	
CHERY, DADY	
ART UNIT	**PAPER NUMBER**
2616	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/626,557	LEE, JONG-KYU	
	Examiner	Art Unit	
	Dady Chery	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 July 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,7,9,11,14 and* is/are rejected.

7)☒ Claim(s) *4-6,8,12,13,14,16,17and 18* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 10 recites the limitation "about" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Djuric (US Patent 6,785,546, hereinafter Djuric).

Regarding claim 1, Djuric discloses *an overload control method of a data communication system* (Fig. 2) *comprising:*

judging whether an access network is overloaded (Col. 1, lines 61 – 62);

and determining a class of the overload and restricting an originating call and a termination call according to the determined class, when the access network is overloaded (Col. 1, lines 60 – 65). Djuric discloses a method for controlling an overload process in a communication system by monitoring the load in the access to determine whether an overload condition exists. If an overload exists restricted a call request.

Regarding claim 11, Djuric discloses *an overload control method of a high speed data communication system* (Fig. 2) *comprising:*

ch*ecking a load state of an access network* (Col. 1, lines 61 –62) ;

determining a class of overload when the access network is overloaded and determining a call acceptance rate according to the determined class(Col. 1, lines 60 – 67) ;

and restricting an originating call and a termination call in accordance with the call acceptance rate (Col. 2, lines 1 –3).

Djuric discloses a method for controlling an overload process in a communication system by monitoring the load in the access to determine whether an overload condition exists. If an overload exists restricted a call request base on a call acceptance rate.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2 , 3,7, 9,14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Djuric in the view of Choi et al. (US Patent 6,405,045).

Regarding claim 2, Djuric discloses all the limitation of claim 2, except *the determining and restricting is performed periodically until the overload judgment is released.*

However, Choi teaches *the determining and restricting is performed periodically until the overload judgment is released* (Col. 4, lines 16 – 20). The method discloses by Choi checks the access network for overloaded periodically. When the overloaded is detected performs the method of restricting call.

Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to restrict the call allocation and rejection operation periodically for preventing a stoppage of the system and interruption of communication (abstract).

Regarding claim 3, Djuric discloses all the limitation of claim 3, *except the overload judgment is released when an overload class is consecutively maintained at a lowest level for more than a prescribed number of periods.*

However, Choi teaches *the overload judgment is released when an overload class is consecutively maintained at a lowest level for more than a prescribed number of periods* (Col. 4, lines 45 – 52). Where the progress return at the first step after the lapse is terminated is considered as release the overload judgment when an overload class is consecutively maintained at a lowest level for more than a prescribed number of periods.

Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to release the overload judgment if the overload class is consecutively maintained at a lowest level for more than a prescribed number of periods for preventing an interruption of the communication system (abstract).

Regarding claim 7, Djuric discloses all the limitation of claim 7 except the *restriction of the originating calls is performed by an access terminal according to an instruction of a base station processor of the access network.*

However, Choi teaches the *restriction of the originating calls is performed by an access terminal according to an instruction of a base station processor of the access network* (Col. 3, lines 54 – 64). The restriction of the originating calls is performed by the drive unit (20), which is installed in the base control processor (BCP).

Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to use an access terminal to restrict the call according to an instruction of a base station processor for the purpose of uniformly controlling allocation or rejection call after considering the occupancy of call resources (Col. 1, lines 50 – 60).

Regarding claims 9 and 14, Djuric discloses the method of *checking the load state* (Col. 1, lines 60 -65).

Djuric fails to teach:

measuring a load of the access network at a predetermined interval;

comparing the measured load with a reference load;

judging that the corresponding access network is overloaded when the measured load is greater than the reference load for a prescribed number of consecutive intervals.

However, Choi teaches:

periodically measuring a load of the access network; (Col. 4, lines 16 – 24). The overload detect unit (30) periodically measures the load access network.

*comparing the measured load with a reference load (*Col. 3, lines 55 –58 and Col. 4, lines 24 – 28), The overload detect unit (30) compares the overload value with the reference values (Thresholds).

and judging that the corresponding access network is overloaded when the measured load is greater than the reference load for a prescribed number of consecutive periods (Col. 4, lines 22 – 52). The overload detects unit (30) judges there is an overload when the overload value is greater than the reference values (Thresholds).

Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Choi into the teaching of Djuric for the purpose of controlling the communication system (Abstract).

Regarding claim 15, Djuric discloses all the limitation of claim 15 except *the restriction of the originating calls is performed by an access terminal.*

However, Choi teaches the overload process unit restricted the outgoing call, which is considered as an access terminal (Col. 4, lines 58 – 64).

Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the access terminal to restrict the outgoing call for the purpose of uniformly controlling allocation or rejection call after considering the occupancy of call resources (Col. 1, lines 50 – 60).

Regarding claim 19, Djuric discloses a data communication system (Fig. 1). A processor configured to determine a variable load status and a class overload. Djuric further discloses the restriction of an originating and incoming call according to the call acceptance rate (Col.1, lines 60 – Col 2, lines 3).

Choi further discloses an overload process unit that restricted the outgoing call when the overload condition is detected (Col. 4, lines 53 –67).

Djuric in combination with Choi fail to expressly describe the different structures of claim 19, like the access terminal and network, packet control unit coupled to the access network configured to provide packet service to the access terminal; and an authentication server coupled to the packet control unit configured to provide authentication functions to the packet control unit.

However, the applicant admits those structures as background of the invention (Fig. 1), access terminal (101), access network (102), packet control unit coupled to the access network (103), an authentication server (105) coupled to the packet control unit configured to provide authentication functions to the packet control unit.

Allowable Subject Matter

8. Claims 4,5,6, 8,12,13,16,17 and 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dady Chery whose telephone number is 571-270-1207. The examiner can normally be reached on Monday - Thursday 8 am - 4 pm ESt.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Q. Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*** Chicago Docket. 04/27/07

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